

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1600-01
Bill No.: HB 697
Subject: Courts; Crimes and Punishment; Criminal Procedure
Type: Original
Date: April 11, 2007

Bill Summary: The proposal authorizes the expungement of certain arrest records and convictions for municipal ordinance violations and certain misdemeanors.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	(\$287,643)	(\$350,133)	(\$360,638)
Total Estimated Net Effect on General Revenue Fund	(\$287,643)	(\$350,133)	(\$360,638)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Federal	\$0 to (\$31,000,000)	\$0 to (\$56,000,000)	\$0 to (\$56,000,000)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0 to (\$31,000,000)	\$0 to (\$56,000,000)	\$0 to (\$56,000,000)

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	3	3	3
Total Estimated Net Effect on FTE	3	3	3

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☒ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Local Government	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Corrections, Department of Revenue, Department of Public Safety – Missouri State Highway Patrol, – Director’s Office, Boone County Sheriff’s Department,** and the **City of Centralia** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Department of Transportation (MoDOT)** assume this proposal would seal municipal ordinance violations and misdemeanors offenses, which include traffic violations, with the exception of 577.010 & 577.020 violations (DWI and BAC). The federal government establishes regulation governing Commercial Motor Vehicles (CDL). These regulations are set forth in the Code of Federal Regulations within 49 CFR Parts 350 et al. Section 384.226 establishes a prohibition on masking convictions, which states: The state must not mask, defer imposition of judgment, or allow an individual to enter into a diversion program that would prevent a CDL driver’s conviction for any violation, in any type of motor vehicle, of a State or local traffic control law (except a parking violation), from appearing on the driver’s record, whether the driver was convicted for an offense committee in the State where the driver is licensed or another state.

If a state does not adhere to these regulations, federal aid highway funds and the Motor Carrier Safety Assistance Program (MCSAP) federal grant program will be withheld.

The MCSAP funding is approximately \$6,000,000 annually. In the first year of non-compliance the state’s federal withholdings would be 5% of Federal Aid Funds – approximately \$25,000,000. Every year there after would be 10% – approximately \$50,000,000. If the state is determined to be out of federal compliance, MoDOT would lose \$31,000,000 in FY 08 and \$56,000,000 each year thereafter.

Oversight assumes MoDOT’s loss of federal funds is dependent upon other factors. Therefore, Oversight has reflected the potential loss of federal funds as a range of \$0 to \$31,000,000 in FY 08 and \$0 to \$56,000,000 in subsequent years.

ASSUMPTION (continued)

Officials from the **Office of the Secretary of State (SOS)** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this proposal for Administrative Rules is less than \$2,500. The SOS recognizes this is a small amount and does not expect additional funding would be required to meet these costs. However, SOS also recognizes that many such bills may be passed in a given year and that collectively the costs may be in excess of what the SOS can sustain with their core budget. Any additional required funding would be handled through the budget process.

Officials from the **Office of the State Public Defender (SPD)** assume they will require 1 FTE Program Analyst (at \$26,975 per year) and 1 FTE Receptionist (at \$20,145 per year) to maintain the toll free hot line, manage the volunteer attorney list, and respond by mail to those asking for the "expungement package." SPD will also require 1 FTE Assistant Public Defender (at \$41,476 per year) to respond to the certain legal questions that will arise.

SPD would incur costs to develop brochures and pamphlets, to establish and maintain a statewide toll-free number, to develop an expungement package including a complete petition, and to compile and maintain a statewide list of volunteer attorneys.

SPD estimates the total cost of the proposal to be \$287,643 in FY 08, \$350,133 in FY 09, and \$360,638 in FY 10.

Officials from the **Springfield Police Department** assume staff costs to process the expungements and to appear in court if a decision is made to contest the expungement would be incurred. Officials estimate these costs to be \$5,000 annually.

Oversight assumes local law enforcement agencies would charge the petitioner a fee equivalent to the cost of processing expungement orders.

Officials from the **City of Kansas City** assume new unreimbursed costs are incurred. The amount will be dependent upon the number of expungements.

Officials from the **City of West Plains** assume the proposal would add some administrative costs to cities.

ASSUMPTION (continued)

Oversight assumes cities could incur an administrative cost to process orders of expungement. Oversight assumes the statewide cost would be less than \$100,000 annually.

<u>FISCAL IMPACT - State Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
GENERAL REVENUE FUND			
<u>Costs – Office of the State Public Defender</u>			
Personal Service	(\$76,045)	(\$93,991)	(\$96,811)
Fringe Benefits	(\$34,418)	(\$42,540)	(\$43,817)
Equipment and Expense	(\$177,180)	(\$213,602)	(\$220,010)
<u>Total Costs – SPD</u>	<u>(\$287,643)</u>	<u>(\$350,133)</u>	<u>(\$360,638)</u>
FTE Change – SPD	3 FTE	3 FTE	3 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$287,643)</u>	<u>(\$350,133)</u>	<u>(\$360,638)</u>
Estimated Net FTE Change for General Revenue Fund	3 FTE	3 FTE	3 FTE
FEDERAL FUNDS			
<u>Losses – Department of Transportation</u>			
Withholdings due to non-compliance	<u>\$0 to</u> <u>(\$31,000,000)</u>	<u>\$0 to</u> <u>(\$56,000,000)</u>	<u>\$0 to</u> <u>(\$56,000,000)</u>
ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>\$0 to</u> <u>(\$31,000,000)</u>	<u>\$0 to</u> <u>(\$56,000,000)</u>	<u>\$0 to</u> <u>(\$56,000,000)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
POLITICAL SUBDIVISIONS			
<u>Revenues</u> – Law enforcement agencies			
Processing fees for orders to expunge	Unknown	Unknown	Unknown
<u>Costs</u> – Law enforcement agencies			
Administrative costs to expunge records	(Unknown)	(Unknown)	(Unknown)
<u>Costs</u> – Cities			
Administrative costs to expunge records	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>
ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

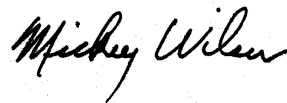
The proposal requires the Director of the Office of State Public Defender to develop brochures, pamphlets, and other materials providing information on the state's expungement process, the types of violations and misdemeanors that can be expunged, and how to contact the office for attorney referrals. The state or local law enforcement agency required to expunge arrest records will be allowed to charge the individual a fee equal to the cost of processing any court order to expunge a record. Convictions for municipal ordinance violations or misdemeanors may be expunged if the individual has no prior or subsequent felony convictions and at least five years have passed since the conviction or suspended imposition of sentence. Expungement of offenses including driving while intoxicated, driving with excessive blood-alcohol content, and certain misdemeanor offenses under Chapters 566, 567, 568, and 573, RSMo, will not be allowed.

FISCAL DESCRIPTION (continued)

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of State Courts Administrator
Department of Transportation
Department of Revenue
Department of Public Safety
 – Missouri State Highway Patrol
 – Director's Office
Office of the Secretary of State
Office of the State Public Defender
Boone County Sheriff's Department
Springfield Police Department
City of Kansas City
City of Centralia
City of West Plains



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Director
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